

REMARKS

The Office Action of March 30, 2004 has been reviewed and the comments therein were carefully considered. Claims 2-3, 10-12, 18-21, and 23-26 remain pending in the instant application.

Rejections under 35 USC § 102

Claims 17-21 stand rejected under 35 USC § 102(b) as being anticipated by Ward (US Pat #s 5,713,923 and 5,978,702). Of the rejected claims, currently amended claim 18 is an independent claim.

With regard to independent claim 18, the Ward patents fail to disclose, teach, or suggest at least the claimed feature of “the microporous membrane section comprising a first end and a second end, the first end and the second end coupled to the solid section forming a continuous cross section of the tubular section, the tubular section having a substantially uniform diameter along the length thereof.” (Emphasis added). Neither of the Ward patents disclose this claimed feature. The Ward patent specification in discussing the microporous portions provides that:

End 25 is provided with microporous portions 27-29 in the preferred embodiment (FIG. 6); however, multiple holes or slits within portions 27-29 could also be used. Additional details about portions 27-29 may be obtained from pending U.S. application Ser. No. 08/430,960 entitled “Intraparenchymal Infusion Catheter System,” filed Apr. 28, 1995, in the name of Dennis Elsberry et al. and assigned to the same assignee as the present application. (‘702 Patent at Column 4, lines 24-33; ‘923 Patent at Column 4, lines 18-26).

The additional details about microporous portions 27-29 can be found in Elsberry U.S. Patent Number 6,093,180 which was incorporated by reference into both Ward patents. As shown in Elsberry, the microporous membrane is located in the catheter tip which is inserted into a lumen. For example, the Elsberry ‘180 patent (referring to Figure 3) states:

The catheter tip 24 has a generally tubular shape and is designed to fit snugly within the lumen 44 of the tubular portion 38. The catheter tip 24 has a lumen 45 to receive agent from the catheter lumen 44.
(Elsberry '180 Patent at Column 3, lines 31-34).

Therefore, as indicated by the above, Elsberry discloses a microporous membrane which is attached internally to a tubular section of the catheter and does not disclose the claimed feature of “the microporous membrane section comprising a first end and a second end, the first end and the second end coupled to the solid section forming a continuous cross section of the tubular section, the tubular section having a substantially uniform diameter along the length thereof.” (Emphasis added).

Similarly, Applicant submits that both Ward patents ('702 and '903) do not disclose the claimed feature.

The Office Action states:

Each end of the microporous sections is connected to an end of a solid catheter section. See figure 6. This results in a continuous cross section through any part of the distal region.
(Office Action, page 2).

However, Applicant respectfully submits that figure 6 does not disclose the claimed feature of “the microporous membrane section comprising a first end and a second end, the first end and the second end coupled to the solid section forming a continuous cross section of the tubular section, the tubular section having a substantially uniform diameter along the length thereof.” (Emphasis added).

Figure 6 of the Ward patents, only indicates that End 25 is provided with microporous portions 27-29. Applicant submits that microporous membrane sections 27-29 of the Ward patents are similar to Elsberry '180 in which the microporous membrane sections contain a porous material which is attached internally to a tubular section of the catheter and does not disclose the claimed feature of “the microporous membrane section comprising a first end and a second end, the first end

and the second end coupled to the solid section forming a continuous cross section of the tubular section, the tubular section having a substantially uniform diameter along the length thereof."

Therefore, for at least this reason, Applicant respectfully submits that independent claim 18 is in condition for allowance. Dependent claims 19-21 which depend from and independent claim 18 are allowable for at least the same reason as independent claim 18.

Rejections under 35 USC § 103

Claims 2-3, 10-12, and 23-30 are rejected under 35 USC § 103(a) as being unpatentable over Ward in view of Deniega. Of the rejected claims, currently amended claims 2, 11, and 23 are independent claims.

Independent claims 2, 11, and 23 each contain the claimed feature of "the tubular section having a substantially uniform inner and outer diameter along the length thereof." With regard to independent claims 2, 11, and 23, the Ward patents fail to disclose teach or suggest at least this claimed feature. As stated above with respect to independent claim 18, Figure 6 of the Ward patents, only indicates that End 25 is provided with microporous portions 27-29. Applicant submits that microporous membrane sections 27-29 of the Ward patents contain a porous material which is attached internally to a tubular section of the catheter and does not disclose the claimed feature of "the tubular section having a substantially uniform inner and outer diameter along the length thereof." Similarly, Deniega fails to disclose, teach, or suggest the claimed feature of "the tubular section having a substantially uniform inner and outer diameter along the length thereof."

Therefore, for at least this reason, Applicant respectfully submits that independent claims 2, 11, and 23 are in condition for allowance. Dependent claims 3, 10, 12, and 24-26 which ultimately

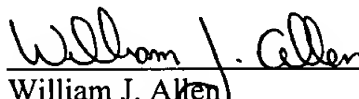
depend from one of independent claims 2, 11, and 23 are allowable for at least the same reason as independent claims 2, 11, and 23.

Claims 27, 31-36, and 44-50 are rejected under 35 USC § 103(a) as being unpatentable over Ward in view of Deniega. Claims 27, 31-36, and 44-50 have been canceled in the current response rendering the rejection moot.

Applicant respectfully submits that the instant application is in condition for allowance. Should the Examiner believe that a conversation with Applicant's representative would be useful in the prosecution of this case, the Examiner is invited and encouraged to call Applicant's representative.

Respectfully submitted,

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 51,393
William J. Allen
Registration No. 51,393

BANNER & WITCOFF, LTD.
10 South Wacker Drive
Chicago, Illinois 60606
Telephone: (312) 463-5000
Facsimile: (312) 463-5001